

**MINUTES OF THE
HEALTH AND HUMAN SERVICES INTERIM COMMITTEE
TOBACCO SUBCOMMITTEE**

Tuesday, September 11, 2001 - 1:00 p.m. - Room 405 State Capitol

Members Present:

Rep. Carl Saunders, House Chair
Sen. D. Edgar Allen, Vice Chair
Rep. Trisha S. Beck
Rep. Rebecca D. Lockhart
Rep. Paul Ray

Staff Present:

Ms. Catherine J. Dupont,
Associate General Counsel
Ms. Joy L. Miller,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to order and Approval of Minutes

Rep. Saunders called the meeting to order at 1:05 p.m.

MOTION: Sen. Allen moved to approve the revised minutes of the July 17, 2001 meeting. The motion passed unanimously.

2. Update on Tobacco Settlement Funds

Mr. Spencer Pratt, Office of Legislative Fiscal Analyst, explained that through June 30, 2001, the state had received approximately \$49 million in tobacco settlement funds. Approximately \$16 million was being withheld pending a decision in a lawsuit from outside attorneys. During a special session, the legislature authorized a settlement of just under \$10 million. If the remaining \$6 million is included in the total money the state has received, the state has received \$55.6 million from the tobacco settlement funds. Mr. Pratt indicated S.B. 15, enacted in 2000, established that half of the money would go into a permanent trust fund and the other half would be available for appropriations. Those appropriations are as follows: 1) \$5.5 million to the Children's Health Insurance Pool, 2) \$4 million to the Department of Health (DOH) for tobacco prevention, education, and cessation, 3) \$2 million to a combination of the Department of Corrections, Courts, Human Services, for drug courts and drug boards, and 4) \$4 million to the University of Utah Health Sciences Center. Also included in S.B. 15 was a provision that if the attorneys' case was settled, there would be an additional \$2 million available to the DOH for expansion of anti-tobacco programs. That money has not yet been appropriated. Mr. Pratt said the state anticipates a payment on December 31 that would net \$9.5 to \$10 million, half of which would go into a General Fund restricted account. The state also anticipates receiving a payment on April 15 and December 31, 2002. Following the December payment the state will receive annual payments on April 15 of each year.

3. Review of Proposed Legislation

Ms. Dupont reviewed proposed legislation "Cigarette Tax Stamp and Contraband Amendments." She said there have been communications from the National Association of Attorneys General raising concerns that states could be threatened with losing some of their Master Settlement Agreement (MSA) funding if they don't vigorously enforce rules against nonparticipating manufacturers. The bill would prohibit licensed tobacco sellers from selling products from nonparticipating manufacturers not in compliance with escrow requirements. The act changes tobacco escrow reporting requirements from an annual to a quarterly basis and expands the definition of contraband cigarettes subject to seizure by the Utah State Tax Commission to include cigarettes sold in violation of state and federal law.

MOTION: Sen. Allen moved to adopt draft legislation "Cigarette Tax Stamp and Contraband Amendments" as a subcommittee bill to be presented to the Health and Human Services Interim Committee. The motion passed unanimously.

Ms. Dupont reviewed draft legislation "Tobacco Amendments." The bill suspends driving privileges of any adult, including parents and friends, who provides cigarettes to a person under the age of 19. The bill removes the limit on money that can be spent on enforcement of the prohibition of tobacco sales to minors. The act increases the fine for minors buying or possessing cigarettes from \$50 to \$55, and requires participation in a tobacco education program. The bill also increases the cigarette tax by 10 cents a pack.

The subcommittee discussed whether all issues covered should remain within the same bill or be separated. Members also discussed the possibility of enhancing penalties and whether increasing the suspension of driving privileges would increase the number of drivers who drive on suspended licenses.

Mr. Bart Blackstock, Department of Public Safety, said driving on a suspended license is typically a class B misdemeanor and carries up to a \$1,000 fine and a jail sentence.

Mr. Jim Olsen, Utah Retail Merchants, stated that minimum penalties should be set. He also noted that in most cases the store clerk who sold cigarettes to underage individuals and the store owners are penalized through the civil process.

Rep. Lockhart suggested that the fines imposed on retailers and those imposed on others be separated.

Rep. Karen Morgan discussed draft legislation, "Technical Amendments to Tobacco Settlement Trust Fund." She explained the bill makes technical amendments to the distribution of the tobacco settlement funds necessary to comply with Utah Constitution Article XXII, Section 4.

MOTION: Rep. Beck moved to support "Technical Amendments to Tobacco Settlement Trust Fund" as a subcommittee bill and recommend it to the Health and Human Services Interim Committee. The motion passed unanimously.

Rep. Morgan discussed draft legislation "Use of Tobacco Settlement Interest Proceeds." She said the bill appropriates the 50 percent interest and dividends earned by the permanent state trust fund for tobacco settlement monies to the Department of Health for cessation programs. She stated the money would be directed to the purpose it was originally intended.

MOTION: Rep. Ray moved to adopt the concept of "Use of Tobacco Settlement Interest Proceeds" and present it to the Health and Human Services Interim Committee. The motion passed unanimously.

The subcommittee returned to discussion of "Tobacco Amendments."

Ms. Rebecca Giles, Tobacco Prevention Program, DOH, explained that when the 25 cent tax increase on cigarettes was imposed, the DOH was receiving over \$1 million from the General Fund in addition to \$250,000 for tobacco prevention. When DOH appropriated \$4 million from the tobacco settlement funds, the \$1 million General Fund appropriation was eliminated. She stated that DOH annually receives \$250,000 from the cigarette tax increase.

MOTION: Rep. Beck moved to earmark 100 percent of the revenues from the proposed 10 cents per pack increase for cessation and prevention only. The motion passed with Rep. Lockhart voting in opposition.

Rep. Saunders said the DOH has reported that 18.8 percent of retail establishments are out of compliance with the underage sales law. The state could lose over \$6 million annually if it exceeds the limit for noncompliance.

Mr. Olsen indicated that persons other than law enforcement officers are being funded to enforce criminal statutes. He stressed that criminal enforcement should be done by law enforcement officers and not health officers who have no training in enforcing criminal law.

MOTION: Sen. Allen moved to support removing the current cap on tobacco enforcement. The motion passed with Rep. Lockhart voting in opposition.

MOTION: Sen. Allen moved to raise the fee a minor must pay when caught possessing tobacco from \$50 to \$60. The motion passed unanimously.

MOTION: Sen. Allen moved to delete "if the offense is a first offense." on lines 133 and 139. The motion passed unanimously.

MOTION: Sen. Allen moved to adopt the concept of Section 76-10-105 as amended, in draft legislation "Tobacco Amendments." The motion passed unanimously.

Rep. Saunders discussed draft legislation "Minors Exposure to Second-Hand Smoke." The bill prohibits drivers or passengers in a motor vehicle from smoking tobacco in a motor vehicle in which a person under the age of 19 is a passenger.

MOTION: Rep. Beck moved to adopt "Minors Exposure to Second-Hand Smoke" as a subcommittee bill and present it to the Health and Human Services Interim Committee. The motion passed with Rep. Lockhart voting in opposition.

Ms. Dupont discussed draft legislation "Public School Survey Amendments." She said the bill creates a statewide mechanism for surveying students. The DOH reported in previous meetings that a good statewide survey is needed to qualify for grants funding tobacco cessation programs. The bill creates a State Student Survey Review Committee. The bill requires review of surveys conducted to obtain data for the development or implementation of governmental policies or legislation, subject to certain criteria.

MOTION: Sen. Allen moved to delete "in the attached self-addressed envelope." on lines 133-134.

SUBSTITUTE MOTION: Rep. Ray moved to make the change as indicated by Sen. Allen and on line 148 after "letter at" delete "the" and insert "any" and after "time" delete "of school registration". He said he wanted some notification from the school to be sent out at registration that states parents have the ability to write a letter requesting their student not participate in the survey.

SUBSTITUTE MOTION: Rep. Saunders moved to vote supporting the concept of obtaining a survey. The motion passed with Rep. Lockhart voting in opposition.

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MOTION: Sen. Allen moved to adjourn the meeting at 3:30 p.m. The motion passed unanimously.

